REMARKS

Reconsideration and withdrawal of the Examiner's objections and rejections under 35 USC §112, 102 and the non-statutory double patenting rejections is requested in view of the foregoing amendments, remarks and terminal disclaimers submitted herewith.

Specification

The Examiner asserts that this application does not contain an abstract of the disclosure as required by 37 CFR §1.72(b) and that an abstract on a separate sheet is required. In response, the specification has been amended to contain an abstract.

Claim Objections

The Examiner has objected to claim 8 under 37 CFR §1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim and asserts that Applicants are required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form, specifically, the Examiner notes that instant claim 4, from which claim 8 ultimately depends from, already recites the limitations that are required in instant claim 8. In response, Applicants have cancelled claim 8.

The Examiner has objected to claim 9 under 37 CFR §1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim and assert that Applicants are required to cancel the claim(s), or amend the claim(s) to

place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form, specifically, the Examiner notes that instant claim 5, from which claim 9 ultimately depends from, already recites the limitations that are required in instant claim 9. In response, Applicants have cancelled claim 9.

The Examiner asserts that instant claims 1-2 recite a broad range of components followed by a series of narrow ranges with the terms "preferably" and "e.g.". For examination purposes, the Examiner further asserts that the narrow ranges recited in instant claims 1-2 are merely exemplary ranges, and thus, the prior art will be applied against the broadest ranges recited in instant claims 1-2. Furthermore, the Examiner suggests that Applicants should delete the narrow ranges from instant claims 1-2, and add new dependent claims that recite the narrow ranges recited in instant claims 1-2. In response, claims 1 and 2 have been amended and claims 10 and 11 have been added according to the Examiner's kind suggestions.

35 U.S.C. § 112

The Examiner has rejected claims 1-9 under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention, asserting that claims 1-3 and 6-7 provide for the use of "a modified naturally occurring polysaccharide gum", but, since the claims do not set forth any steps involved in the method/process, it is unclear what method/process Applicants are intending to encompass.

The Examiner has further rejected claims 1-3 and 6-7 under 35 USC §101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 USC §101. In response, Applicants have amended claims 1-3 and 6-7 to set forth a method and positive steps involved in the method.

The Examiner has rejected claims 4-5 and 8-9 under 35 USC §112, second paragraph, for being dependent upon a claim with the above addressed 112 problem. In response, Applicants respectfully assert that this rejection has been addressed by the amendments to claims 1-3 and 6-7.

35 U.S.C. § 102

The Examiner has rejected claims 1-9 under 35 USC §102(e) as being anticipated by Leupin et al., U.S. Patent No. 6,384,011; asserting that Leupin et al., U.S. Patent No. 6,384,011, discloses a laundry detergent composition comprising 0.1-5% by weight of a hydrophobically modified cellulose material (see col. 4, line26 – col. 5, line 65), 1-80% by weight of a detersive surfactant, such as a combination of anionic and nonionic surfactants (see col. 6, lines 7-65), 0.1-80% by weight of a builder, such as silicates and aluminosilicates (see col. 7, line56 – col. 8, line 30), perfumes (see col. 8, lines 31-43), and 5-12% by weight of water (see col. 12, lines 25-32), per the requirements of the instant claims and that it is further taught by Leupin et al. that the composition is used in a method to treat fabrics to impart fabric appearance benefits (see col. 12, lines 59-67), specifically, note Examples 1-6, and therefore, instant claims 1-9 are anticipated

by Leupin et al., U.S. Patent No. 6,384,011. Applicants respectfully traverse this rejection.

Leupin et al, ('011) relates to a laundry detergent composition comprising a hydrophobically modified cellulose (see for example col. 14, lines 40-44) which has a molecular weight of from 5,000 – 2,000,000, preferably 50,000 to 1,000,000. In contrast, the instant case relates to a composition including a modified naturally occurring polysaccharide gum with a specific structure having a weight average molecular weight of 250,000 or less. Specific low molecular weight modified polysaccharide gums are disclosed in the instant specification at page 14, line 18, i.e., 30,000 grams per mole. There is no disclosure or suggestion in Leupin et al. with respect to modified naturally occurring polysaccharide gums limited to molecular weights of 250,000 or less.

Double Patenting

The Examiner has rejected claims 1-9 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-41 of U.S. Patent No. 6,288,022; claims 1-17 of U.S. Patent No. 6,248,710; claims 1-43 of U.S. Patent No. 6,506,220; claims 1-7 of U.S. Patent No. 6,455,489; claims 1-10 of U.S. Patent No. 6,517,588; claims 1-8 of U.S. Patent No. 6,358,903; claims 1-14 of U.S. Patent No. 6,562,771; and claims 1-18 of U.S. Patent No. 6,475,980. Although the conflicting claims are not identical, the Examiner asserts that they are not patentably distinct from each other as they claim a similar composition and method for treating fabrics with a laundry treatment composition comprising cellulosic or polysaccharide

type polymers. In response, Applicants herewith submit a terminal disclaimer for U.S. Patent Nos. '022, '710, '220 , '489, '588, '903, '771 and '980.

The Examiner has provisionally rejected claims 1-9 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-17 of copending Application No. 10/239,967; over claims 1-21 of copending Application No. 10/225,863; and over claims 1-31 of copending Application No. 10/225,864, asserting that although the conflicting claims are not identical, they are not patentably distinct from each other because the copending applications claim a similar composition and method for treating fabrics with a laundry treatment composition comprising a $Beta_{1-4}$ polysaccharide and a surfactant.

In response, Applicants respectfully request the Examiner to withdraw the provisional obviousness-type double patenting type rejections if they become the only rejections remaining in the application and permit the application to issue as a patent thereby converting the provisional double patenting rejection in the other applications into a double patenting rejection at the time the one application issues as a patent. (see MPEP Section 804(I)(B), 8th Ed. Revision 2, May 2004).

Conclusion

In summary, by the present amendments, claims 1-3 and 6-7 have been amended and claims 8 and 9 have been cancelled. New claims 10 and 11 have been added. Applicants submit that no new matter has been added by these amendments. In light of the above amendments and remarks, Applicants submit that all claims now pending

in the present application are in condition for allowance. Reconsideration and allowance of the application is respectfully requested. If a telephone interview would facilitate prosecution of the application, the Examiner is invited to contact the undersigned.

Respectfully submitted,

Alan A. Bornstein
Reg. No. 40,919
Attorney for Applicant(s)

AAB/pod
201-8402680